

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

UNITED STATES OF AMERICA

No. EP-08-CR-01698-FM  
EP-08-CR-02268  
EP-09-CR-01871  
EP-09-CR-01872

v.

El Paso, Texas

ROBERT EDWARD JONES

July 2, 2009

PLEA OF GUILTY  
BEFORE THE HONORABLE FRANK MONTALVO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: William F. Lewis, Jr.  
Steven R. Spitzer  
Debra P. Kanof  
Assistant United States Attorney  
700 East San Antonio, Suite 200  
El Paso, Texas 79901

For the Defendant: Joe A. Spencer, Jr.  
Attorney at Law  
1009 Montana Ave.  
El Paso, Texas 79902

Proceedings recorded by stenotype. Transcript produced by  
computer-aided transcription.

Nalene Benavides, RMR, CRR  
511 East San Antonio, Room 409  
El Paso, Texas 79901

11:13 1 THE CLERK: EP-08-CR-1698, U.S.A. v. Robert Edward  
2 Jones; EP-08-CR-2268, U.S.A. v. Robert Edward Jones;  
3 EP-09-CR-1871, U.S.A. v. Robert Edward Jones; and  
4 EP-09-CR-1872, U.S.A. v. Robert Edward Jones.

5 MR. LEWIS: Good morning, Your Honor. Bill Lewis on  
6 behalf of the United States, along with Debra Kanof and Steve  
7 Spitzer, ready in all matters.

8 THE COURT: Good morning.

9 MR. SPENCER: Good morning, Your Honor. Joe Spencer  
10 on behalf of Robert Jones, and we are ready to proceed,  
11 Your Honor.

12 THE COURT: Good morning.

13 Mr. Jones, do you understand the purpose of this  
14 hearing today?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Adriana, place Mr. Jones under oath,  
17 please.

18 THE CLERK: Please raise your right hand.

19 (Defendant sworn.)

20 THE COURT: Mr. Jones, what is your full name?

21 THE DEFENDANT: Robert Edward Jones.

22 THE COURT: Is there a "Jr." attached to your name?

23 THE DEFENDANT: Yeah -- no, sir, not to mine.

24 THE COURT: There isn't, okay. Mr. Spencer --

25 MR. SPENCER: Yes, Your Honor.

11:14 1 THE COURT: -- have you had enough time to talk to  
2 Mr. Jones about the totality of the cases that the government  
3 is pursuing against him?

4 MR. SPENCER: On countless occasions, Your Honor.

5 THE COURT: Okay. And based on the discussions you  
6 had with him, is there any kind of doubt in your mind about his  
7 mental capacity to plead guilty?

8 MR. SPENCER: After numerous conversations with him, I  
9 have no reservations or doubt in my mind about his capacity,  
10 Your Honor.

11 THE COURT: Do you believe he has both a factual as  
12 well as a rational capacity to discuss the case with you?

13 MR. SPENCER: That is my belief, Your Honor.

14 THE COURT: Mr. Lewis, Ms. Kanof, Mr. Spitzer, are  
15 there any suggestions in either the government's files or your  
16 own interactions with Mr. Jones that there are any issues with  
17 his mental capacity?

18 MR. LEWIS: Your Honor, as for the government, no, the  
19 government has no issues concerning Mr. Jones' mental capacity.

20 THE COURT: Very well. Mr. Jones, are you suffering  
21 from any kind of illness, any kind of condition that, as you  
22 stand here today, may affect your ability to understand what we  
23 are doing here today?

24 THE DEFENDANT: No, sir, Your Honor.

25 THE COURT: Are you suffering from any kind of

11:16 1 emotional difficulties, anxiety, depression, anything like that  
2 that may affect your ability to understand what we are doing  
3 here today?

4 THE DEFENDANT: No, sir.

5 THE COURT: I am sure you are nervous, and you should  
6 be.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Because with all the wheeling and dealing  
9 you have done with your life, you have never been in a  
10 situation like this. I can assure you of that.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I have a lot of questions to ask you and a  
13 lot of things to say to you. And I need to make sure that you  
14 understand everything that we go through.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: If at any point in time I say something to  
17 you or ask you a question you don't understand, let me know,  
18 and I will be happy to explain it or clarify it to you myself.  
19 Or if you would rather speak to Mr. Spencer in private, let me  
20 know, and I will let you have whatever time you need to speak  
21 to Mr. Spencer.

22 At all times during this hearing, keep one thing in  
23 mind: You are under oath. So every time you speak to me, you  
24 need to make sure that everything you are telling me is the  
25 truth. Do you understand me?

11:17 1 THE DEFENDANT: Yes, sir.

2 THE COURT: I am going to ask the lawyers for the  
3 government now to go over the allegations that are the subject  
4 of the plea agreement that you, your lawyer, and the government  
5 are entering into. And they are going to go over the penalties  
6 you face by pleading guilty to those allegations. These are  
7 the statutory penalties, okay, not the penalties in the plea  
8 agreement. We are going to deal with those later, okay?

9 THE DEFENDANT: Yes.

10 THE COURT: But these are the statutory penalties.

11 A term they are going to use as they describe the  
12 penalties is "supervised release." What "supervised release"  
13 is, is a period of time following a sentence of incarceration  
14 during which you have to comply with certain rules and  
15 conditions, and your failure to do that will in all likelihood  
16 put you back in prison. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Very well. Mr. Lewis.

19 MR. LEWIS: Thank you, Your Honor.

20 THE COURT: Proceed.

21 MR. LEWIS: May I proceed, Your Honor?

22 THE COURT: Yes, sir.

23 MR. LEWIS: Thank you.

24 Mr. Jones, you are here today to enter pleas of guilty  
25 arising out of two indictments that have been returned by a

11:19 1 grand jury against you, as well as two felony informations.

2 Let me go over the counts that you are pleading guilty to, as  
3 they pertain to the ones in the indictments.

4 First, in Cause Number EP-08-CR-1698, you are here to  
5 plead guilty pursuant to a plea agreement to count one. And  
6 count one provides as follows: That beginning on or about  
7 June 1 of 2003, and continuing through and including on or  
8 about June 13 of 2006, in the Western District of Texas and  
9 elsewhere, you, the defendant, Robert Edward Jones, knowingly  
10 and willfully conspired and agreed together with other persons,  
11 both known and unknown to the grand jury, to commit the  
12 following offense against the United States; that is, being an  
13 agent of an organization, NCED, conspired to knowingly  
14 embezzle, steal, obtain by fraud and otherwise without  
15 authority knowingly convert to the use of a person other than  
16 the rightful owner \$5,000 or more in funds belonging to and in  
17 the care, custody of NCED, a not-for-profit organization, that  
18 received in each year alleged herein in excess of \$10,000 under  
19 a federal program JWOD, J-W-O-D, involving a grant, contract,  
20 subsidy, loan, guarantee, insurance, and other form of federal  
21 assistance, in violation of Title 18, United States Code,  
22 Section 666(a) (1) (A).

23 Mr. Jones, do you understand the nature of the charges  
24 as they are set out in count one of this indictment?

25 THE DEFENDANT: Yes, sir.

11:21 1 MR. LEWIS: You need to understand, Mr. Jones, that if  
2 you continue with your plea today to this count, you face a  
3 possible imprisonment of up to five years, a fine of up to  
4 \$250,000, three years of supervised release, and a \$100 special  
5 assessment.

6 Mr. Jones, do you understand the full range of  
7 punishment by continuing with your plea to this count?

8 THE DEFENDANT: Yes, sir.

9 MR. LEWIS: You are also here today pursuant to the  
10 plea agreement to enter a plea to count ten of this same  
11 indictment. And count ten provides as follows: That beginning  
12 on or about September 7 of 2005 and continuing through and  
13 including on or about February 1 of 2006, in the Western  
14 District of Texas and elsewhere, you, the defendant, Robert  
15 Edward Jones and Patrick Woods knowingly conspired and agreed  
16 together and with each other and with other persons both known  
17 and unknown to the grand jury to commit the following offenses  
18 against the United States; that is, being an agent of NCED,  
19 conspired to knowingly embezzle, steal, obtain by fraud, and  
20 otherwise without authority knowingly convert to the use of  
21 other persons not the rightful owner \$5,000 or more in funds  
22 belonging to and in the care, custody, and control of NCED, a  
23 not-for-profit organization, which in the years 2005 and 2006  
24 alleged herein, received in excess of \$10,000 under a federal  
25 program, JWOD, J-W-O-D, involving a grant, contract, subsidy

11:22 1 loan, guarantee, insurance and other form of federal  
2 assistance; to wit: You, the defendant, Robert Edward Jones,  
3 and Patrick Woods, both agents of NCED, and without authority  
4 from the board of directors of NCED, engaged in financial  
5 transactions in the following amounts, all of which benefited  
6 the defendants and others:

7 One, approximately \$1,609,511.56 [sic] of NCED funds  
8 issued in the form of an official check from Chase Bank, which  
9 money was applied toward NCED's purchased property known as  
10 Stoneridge property;

11 Second, approximately \$19,627.97 of NCED funds issued  
12 in the form of an official check from Chase Bank, which money  
13 was applied towards NCED's purchased property known as the West  
14 Ten property;

15 And third, approximately \$625,000 in the form of two  
16 certificates of deposit owned by NCED pledged as collateral for  
17 a loan on the West Ten property;

18 which embezzlements and misapplication of funds were  
19 in the approximate aggregate amount of \$1,714,139.53, all in  
20 violation of Title 18, United States Code, Sections 371 and  
21 666(a)(1)(A).

22 Mr. Jones, do you understand the nature of the charge  
23 as it is set out in count ten?

24 THE DEFENDANT: Yes, sir.

25 MR. LEWIS: Mr. Jones, if you continue with your plea



11:23 1 today, you should understand that the maximum period of  
2 confinement you face is incarceration of up to five years in  
3 the Bureau of Prisons, a fine of up to \$250,000, three years of  
4 supervised release, and a \$100 assessment.

5 Mr. Jones, do you understand the range of punishment  
6 if you plead guilty to this count today?

7 THE DEFENDANT: Yes, sir.

8 MR. LEWIS: Also, in this indictment you are here  
9 pursuant to the plea agreement to enter a plea to count 14.  
10 Count 14 provides as follows, that beginning on or about  
11 November 22 of 2002 and continuing through and including on or  
12 about March 6 of 2006, in the Western District of Texas and  
13 elsewhere, you, the defendant, Robert Edward Jones and Ernesto  
14 Alonso Lopez:

15 One, knowingly and willfully conspired and agreed  
16 together and with each other and with others persons both known  
17 and unknown to the grand jury to commit the following offenses  
18 against the United States; that is, in a matter within the  
19 jurisdiction of the executive branch of the government of the  
20 United States, the Committee for Purchase from People who are  
21 Blind or Severely Disabled, to knowingly and willfully falsify,  
22 conceal, and cover up by any trick, scheme, and device a  
23 material fact; to make a materially false, fictitious, and  
24 fraudulent statement and representation; and to make and use a  
25 false writing and document knowing the same to contain a

11:25 1 materially false, fictitious, fraudulent statement and entry,  
2 in violation of Title 18, United States Code, Section 1001.

3 And second, that you knowingly and willfully conspired  
4 and agreed together with each other and with other persons both  
5 known and unknown to the grand jury to defraud the  
6 United States and any agency thereof in any manner and for any  
7 purpose, all in violation of Title 18, United States Code,  
8 Section 371.

9 Mr. Jones, do you understand the nature of the charges  
10 set out in count 14?

11 THE DEFENDANT: Yes, sir.

12 MR. LEWIS: Mr. Jones, if you continue with your plea  
13 today to this count, you should understand that the maximum  
14 period of confinement you face is up to five years confinement  
15 in the Bureau of Prisons, a fine not to exceed \$250,000, three  
16 years of supervised release, and a \$100 assessment.

17 Do you understand the punishment range you face by  
18 pleading guilty to this count?

19 THE DEFENDANT: Yes, sir.

20 MR. LEWIS: Additionally, Mr. Jones, pursuant to a  
21 plea agreement, you are here today as well to enter a plea to a  
22 felony information, that is, in Cause Number EP-09-CR-1872.  
23 And that count reads as follows: That on or about October 17,  
24 2004, in the Western District of Texas and elsewhere, you, the  
25 defendant, Robert Edward Jones, did willfully aid and assist in

11:26 1 and procure, counsel, and advise the preparation and  
2 presentation to the Internal Revenue Service of a U.S.  
3 Individual Income Tax Return for Estates and Trusts, Form 1041,  
4 for the Jones Family Trust for the calendar year 2003. And the  
5 return was false and fraudulent as to a material matter, in  
6 that the Form 1041 contained a false statement and  
7 representation as to the business income received and failed to  
8 include an additional \$1 million in income the Jones Family  
9 Trust received in the year 2003, and whereas the defendant,  
10 Robert Edward Jones, then and there knew that the Form 1041  
11 failed to include this additional \$1 million, all in violation  
12 of Title 26, United States Code, Section 7206(2).

13 Mr. Jones, do you understand the nature of this charge  
14 as it is set out in the felony information?

15 THE DEFENDANT: Yes, sir.

16 MR. LEWIS: Mr. Jones, you should understand that by  
17 pleading guilty to this count, you face confinement in the  
18 Bureau of Prisons for a period of time not to exceed three  
19 years, a fine not to exceed \$100,000, three years of supervised  
20 release, and a \$100 assessment.

21 Do you understand the full range of punishment you  
22 face by entering a plea of guilty to this count?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Mr. Lewis, don't go away. Let's take care  
25 of something here.

11:27 1 MR. LEWIS: Yes, sir.

2 THE COURT: Mr. Jones, the charge, as was pointed out  
3 to you in that information, is a felony charge. By pleading  
4 guilty to the information, you are giving up the right you have  
5 to have a grand jury consider the evidence the government has  
6 against you and have a grand jury determine if the government  
7 has probable cause to charge you with that.

8 Has that been explained to you by your lawyer?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you willing to proceed with the plea  
11 of guilty to the information and give up your right to a grand  
12 jury indictment?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: That being the case, I need you and your  
15 lawyer and the government to sign the waiver of grand jury  
16 indictment.

17 MR. SPENCER: We are signing the waiver as to both  
18 informations, Your Honor.

19 THE COURT: Very well. Very well. I still need to  
20 question him on the second one. So we will take care of it  
21 when the time comes.

22 Let the record reflect that the waiver about the  
23 information in Case Number 09-CR-1872 has been duly executed.

24 MR. LEWIS: Yes, Your Honor, it has.

25 THE COURT: Thank you, Mr. Lewis.

11:29 1 Mr. Spitzer.

2 MR. SPITZER: Thank you, Your Honor.

3 Mr. Jones, under the same plea agreement as it relates  
4 to Cause Number EP-08-CR-2268, you have agreed to plead guilty  
5 to count two of what is a five-count indictment. Count two  
6 charges you with false statements to obtain credit and reads as  
7 follows: Beginning on or about February 19, 2003, and  
8 continuing through and including on or about September 3, 2003,  
9 in the Western District of Texas and elsewhere, you, the  
10 defendant, Robert Edward Jones, knowingly made and caused to be  
11 made a material false statement to National City Mortgage, a  
12 wholly owned subsidiary of National City Bank of Indiana, a  
13 financial institution the accounts of which were insured by the  
14 Federal Deposit Insurance Corporation, on an application for  
15 credit, a loan, and a commitment, release, acceptance and  
16 substitution of security for a loan, for the purpose of  
17 influencing the action of a financial institution; that is, the  
18 defendant, Robert Edward Jones, stated and caused to be stated  
19 in a Uniform Loan Application submitted to National City  
20 Mortgage that, among other things, you had no judgments against  
21 yourself, when in truth and in fact you did have judgments  
22 against yourself and you knew that you had judgments against  
23 yourself, in violation of Title 18, United States Code,  
24 Section 1014.

25 Mr. Jones, do you understand what you are pleading

11:30 1 guilty to under count two of this particular indictment?

2 THE DEFENDANT: Yes, sir.

3 MR. SPITZER: Mr. Jones, do you understand that the  
4 sentence you face after pleading guilty to this count is up to  
5 30 years in prison, up to a \$250,000 fine, a \$100 special  
6 assessment, and up to five years of supervised release?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Ms. Kanof.

9 MS. KANOF: Thank you, Your Honor.

10 This is also an information, Your Honor. And we have  
11 the executed waiver -- signed waiver.

12 THE COURT: Well, we need to first do the admonition  
13 about the charges and the penalties, and then we will take care  
14 of the waiver of rights.

15 MS. KANOF: I will.

16 If I may, Your Honor, before doing the admonition  
17 concerning the charges, I have an oral motion that is a joint  
18 motion with Mr. Spencer to amend a mistake that Mr. Spencer  
19 caught in the information on page 2, where it alleges that he  
20 conspired with at least 24 known conspirators. And I certainly  
21 don't have very good mathematical skills, because there are 19  
22 alleged, not 24. So we would like to amend that jointly to 19  
23 instead of 24, orally.

24 MR. SPENCER: That is my agreement, Your Honor.

25 THE COURT: Very well. Yeah, the information will

11:32 1 stand amended.

2 You may proceed, ma'am.

3 MS. KANOF: Thank you.

4 Good morning, Mr. Jones. By information you are  
5 charged by the Acting United States Attorney in one count. The  
6 count alleges a violation of Title 18, United States Code,  
7 Section 1349, with the object being Sections 1341, 1343, and  
8 1346, specifically that is a conspiracy. 1349 is a conspiracy  
9 to commit fraud. And the objects of the conspiracy that are  
10 alleged are wire fraud, mail fraud, and the deprivation of  
11 right to honest services.

12 I am not going to read the entire information because  
13 it is lengthy. I will -- and I know you have read it with your  
14 counsel. I will summarize for you that, basically, you are  
15 being charged in a one-count indictment with conspiring and  
16 agreeing with at least 19 other known co-conspirators that are  
17 not charged in this information, some elected officials, some  
18 not elected officials, to accomplish five objectives.

19 Of the five objectives: Objective number one, it is  
20 alleged in the information that you conspired to encourage  
21 through monetary gifts and bribes elected officials at the  
22 El Paso County Commissioners Court so that they would influence  
23 that -- so that you could influence their vote on a contract  
24 for Access Healthsource.

25 Object number two is the same allegation, but with

11:33 1 other co-conspirators at the El Paso Independent School  
2 District, with board members, again, to influence their vote  
3 for a contract for Access Healthsource and the Access  
4 subsidiaries.

5 And the third object of the conspiracy was, again, the  
6 same, but at the Ysleta Independent School District, where you  
7 conspired with others to provide cash money, campaign  
8 contributions, and other gratuities in exchange for their  
9 support, influence and vote for a contract.

10 And count four is -- I'm sorry, the fourth objective  
11 is also at the Ysleta Independent School District, but for  
12 another contract, not the Access contract.

13 And count -- and the fifth objective is the same  
14 allegation, and that is conspiring with individuals to provide  
15 cash money, campaign contributions, and other gratuities in  
16 exchange for the support and influence of elected officials in  
17 the Socorro Independent School District Board of Trustees.

18 Do you understand what you have been charged with?

19 THE DEFENDANT: Yes, ma'am.

20 MS. KANOF: I am going to detail to you what the  
21 maximum penalty you could receive under the statute, and that  
22 is 20 years in the custody of the Attorney General of the  
23 United States and up to a \$250,000 fine, or a combination of  
24 both, and in addition to that, three years of supervised  
25 release. You also must pay a \$100 special assessment to the



11:35 1 Crime Victims Fund for pleading guilty to one count.

2 Do you have any questions?

3 THE DEFENDANT: No, ma'am.

4 MS. KANOF: Thank you, Your Honor.

5 THE COURT: Do you understand the penalties you face  
6 by pleading guilty to that information, Mr. Jones?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Mr. Jones, I realize you already signed a  
9 waiver about this, but I need to make sure you understand this:  
10 Do you understand that by pleading guilty to an information,  
11 you are giving up the right you have to have a grand jury  
12 consider the evidence the government has and make a  
13 determination whether the government has probable cause to  
14 charge you with the charge contained in that information?

15 THE DEFENDANT: Yes, Your Honor, I understand.

16 THE COURT: Have you had an opportunity to discuss  
17 that with your lawyer?

18 THE DEFENDANT: Yes, sir, I have.

19 THE COURT: Very well. And is it with that  
20 understanding that you agree to waive your right to a grand  
21 jury indictment?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Very well. Mr. Jones, are you here today  
24 to plead guilty voluntarily?

25 THE DEFENDANT: Yes, Your Honor.

11:35 1 THE COURT: Anyone forced you, threatened you, or  
2 coerced you in any manner into pleading guilty today?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: You are pleading guilty pursuant to a plea  
5 agreement with the government in both of the informations and  
6 the indicted cases. The plea agreement includes everything.

7 I know you have had ample opportunity to discuss it  
8 with your lawyer, but I need to hear it from you. Have you  
9 been able to discuss in detail with your lawyer the terms and  
10 conditions of that plea agreement?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Did you make sure you understood the terms  
13 and conditions of that plea agreement before you set your  
14 signature to it?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Was anything offered to you by your lawyer  
17 or any one of the government lawyers or agents involved in this  
18 investigation to induce you to plead guilty that is not written  
19 down on the plea agreement document you signed?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Okay. Your plea agreement has a cap on  
22 the maximum penalty in your case, that cap being 120 months.  
23 Is that your understanding of that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Do you understand that any decision about

11:37 1 what sentence you will face is strictly my decision?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that it is not your  
4 lawyer's decision, it is not the government's decision, and it  
5 is not a bargaining process either? I am the one that gets to  
6 make that call. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Fair enough. Do you understand that under  
9 the law you are presumed to be innocent and it is the  
10 government's responsibility to prove the allegations the  
11 government is making against you and the government must do  
12 that by presenting evidence of those allegations beyond a  
13 reasonable doubt? Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand that by pleading guilty  
16 today you are giving up the right you have to have a trial in  
17 front of a jury? By giving up the right you have to have a  
18 trial in front of a jury, you are giving up the right you have  
19 to have your lawyer question the witnesses the government has  
20 against you. You are giving up the right you have to have your  
21 lawyer challenge the evidence the government has against you.  
22 You are giving up the right you have to compel the attendance  
23 of witnesses to testify on your behalf. And you are giving up  
24 forever the right to present any kind of evidence on your  
25 behalf or to put any kind of defense you think you have -- you

11:39 1 think you may have to those allegations. Is that clear to you,  
2 that you are giving up all those rights?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Is it clear to you, also, that by pleading  
5 guilty today, you are giving up the right you have to remain  
6 silent?

7 Now, let me explain that to you. If you go to trial  
8 in any or all of those cases, you don't have to testify on your  
9 own behalf. And no one can hold against you that you don't  
10 testify. Now, by pleading guilty today, you are giving up the  
11 right you have to remain silent because you have to admit to  
12 the allegations the government is making against you, and you  
13 have to admit to the facts that support those allegations.

14 Is that clear to you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that by pleading guilty  
17 today pursuant to a plea agreement, you are giving up the right  
18 you have to appeal your case? Save and except for two very  
19 limited situations, you cannot appeal your case.

20 The first one of those is if the government engaged in  
21 illegal conduct in bringing the case against you. And the  
22 second one of those is if you received ineffective assistance  
23 of counsel. Other than that, you have no rights of appeal in  
24 this case. Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

11:40 1 THE COURT: So, for example, let's say that when  
2 everything is said and done, I sentence you to 90 months in  
3 custody, you can't turn to Mr. Spencer and say, "That's too  
4 much." Well, that's not a right to appeal. The fact that you  
5 don't like the sentence doesn't give you the right to withdraw  
6 your plea of guilty. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Now, let me explain to you the  
9 sentencing process here now. Before I sentence you, I am going  
10 to have a presentence report prepared in your case. Okay? You  
11 are going to have a chance to go over that presentence report  
12 with your lawyer, and your lawyer will have the opportunity to  
13 file any objections he deems appropriate. And I will take  
14 those up before you are sentenced, okay?

15 So I am going to consider the presentence report. I  
16 am going to consider the terms and conditions of the plea  
17 agreement and your compliance with the terms and conditions of  
18 the plea agreement. I am going to consider any information  
19 about you that your lawyer brings to my attention, and I am  
20 going to consider any motions from the government about your  
21 compliance with the terms and conditions of the plea agreement.  
22 And I will listen carefully to anything your lawyer has to say  
23 on your behalf, the government has to say on your behalf, and  
24 you personally have to say on your behalf. After that, I am  
25 going to make a decision about your sentence. Is that clear to

11:42 1 you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Jones, I am going out of my way to  
4 make sure this is clear to you, but not any more than I do with  
5 any other defendant that comes in this court. In fact, my  
6 staff will tell you that on quite a few occasions I will speak  
7 in Spanish directly to defendants that come here through an  
8 interpreter because it is important to me that they understand  
9 what this is all about. It is important to me that you  
10 understand what this is about.

11 Are we communicating?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Fair enough.

14 Mr. Jones, I have gone over the rights that you have  
15 that you are giving up by pleading guilty. I am satisfied you  
16 understand the allegations the government is making against  
17 you. I am satisfied you understand the penalties you face, I  
18 am satisfied you understand the terms and conditions of the  
19 plea agreement, and I am satisfied that you are here  
20 voluntarily.

21 Now, with that in mind, this is what I need to know:  
22 Do you want to plead guilty in your case -- in your cases,  
23 excuse me -- yes or no?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Lewis, let's deal with the factual

11:43 1 basis as to your part of the case.

2 MR. LEWIS: Your Honor, as I'm sure the Court is aware  
3 and has reviewed the plea agreement, the factual basis in these  
4 cases, as they pertain to the counts Mr. Jones is here today to  
5 plead guilty to, are quite lengthy. I have discussed with  
6 defense counsel, Mr. Spencer, about the factual basis. And the  
7 defendant has agreed to waive reading of the factual basis as  
8 pertains to counts -- to the counts he is pleading guilty to,  
9 in count -- in Cause Numbers EP-08-CR-1698, EP-08-CR-2268, and  
10 EP-09-CR-1872.

11 I have previously marked as Exhibit 39 the factual  
12 basis that is attached to the plea agreement as it pertains to  
13 the counts that defendant is pleading guilty to under those  
14 cause numbers, and I will tender that now to defense counsel  
15 and defendant to review. And I would like to offer  
16 Government's Exhibit 39 into evidence as the factual basis to  
17 support the plea by the defendant.

18 MR. SPENCER: Your Honor, after having had an  
19 opportunity to examine Exhibit 39, we have no objections.

20 MR. LEWIS: The government would also point out,  
21 Your Honor, to the Court that the defendant has both reviewed  
22 and made changes to this factual basis as it is filed with the  
23 plea agreement. And he has done so through defense counsel.  
24 And by signing the plea agreement and signature that his -- the  
25 defendant's signature, which is on the plea agreement, is an

11:45 1 acknowledgment that he also agrees with the factual basis as it  
2 is attached to the plea agreement.

3 And also, Your Honor, in furtherance of the factual  
4 basis, which has been marked and offered as Exhibit 39, the  
5 government would also tender Government's Exhibits 1 through  
6 38, which are referenced in that factual basis as in support of  
7 the evidence to which the government is offering to support the  
8 plea of guilty. So the government also offers Government's  
9 Exhibits 1 through 38 at this time.

10 THE COURT: Mr. Spencer.

11 MR. SPENCER: Your Honor, after previously having had  
12 an opportunity to examine Exhibits 1 through 38, we have no  
13 objections.

14 THE COURT: Okay. Mr. Jones, have you been able to go  
15 over in detail the factual basis attached to the plea agreement  
16 that you signed with the government?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And under oath, are you telling me that  
19 the information contained therein is true?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Mr. Jones, to the allegations the  
22 government is making against you, in Case Number 08-CR-1698,  
23 08-CR-2268, and 08-CR-1872, how do you plead, guilty or not  
24 guilty?

25 THE DEFENDANT: Guilty, Your Honor.



11:47 1 THE COURT: Ms. Kanof, let me hear about 09-CR-1871,  
2 ma'am.

3 MS. KANOF: Your Honor, I would like the record to  
4 reflect that although Mr. Spencer is sole counsel of record in  
5 the court, that Mr. Jones was also assisted by another attorney  
6 named Chad Muller of San Antonio, Texas, who is an extremely  
7 highly respected expert in tax matters and has been advising  
8 Mr. Jones on business matters and criminal matters. He is a  
9 very well known criminal defense attorney -- white collar  
10 criminal defense attorney in San Antonio as well. The  
11 documents were also reviewed by Mr. Muller and discussed with  
12 his client. Mr. Muller knowing Mr. Jones for a lengthy period  
13 of time assisted, I think, the defendant and also the  
14 government in furthering this agreement.

15 The factual basis in EP-09-CR-1871 is also lengthy,  
16 Your Honor. It's 26 pages long. And my understanding is that  
17 the defendant has waived a reading of it. I am going to show  
18 him what I have marked as Government's Exhibit Number 40, which  
19 is the 26-page factual basis that is attached to the plea  
20 agreement. And if he and his counsel agree that that is, in  
21 fact, the factual basis that was agreed to, ask that it be  
22 admitted into evidence.

23 MR. SPENCER: Your Honor, after previously having had  
24 ample opportunity to examine Government's Exhibit 40, we have  
25 no objections.

11:48 1 MS. KANOF: I would also like, Your Honor, to move to  
2 seal both Government's Exhibit 40 and Government's Exhibit 39  
3 because they are part of the sealed plea agreement and not  
4 sealing them would be in violation of *United States v. Briggs*  
5 and *In Re Smith*.

6 THE COURT: Correct. Any objection to that?

7 MR. SPENCER: No objection, Your Honor.

8 THE COURT: Very well. Before I get -- Ms. Kanof,  
9 before I get to that --

10 Mr. Jones, have you carefully reviewed the factual  
11 basis that has been marked as Government's Exhibit 40?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Can you tell me here under oath today that  
14 the information contained in that exhibit is true?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Mr. Jones, to the allegations the  
17 government is making against you in 09-CR-1871, how do you  
18 plead, guilty or not guilty?

19 THE DEFENDANT: Guilty, Your Honor.

20 THE COURT: On the government's motion, Exhibit 39 and  
21 40 are sealed and will not be made part of the public record in  
22 this case. There being no motion to seal Exhibits 1 through  
23 38, those will be made part of the public record in the case.

24 MR. LEWIS: That was -- well, Your Honor, I was going  
25 to ask the Court, considering that the Exhibits 1 through 38

11:49 1 are referenced in Government's 39, which the Court has just  
2 sealed, then those documents being referenced should also be  
3 sealed. And the government would make a motion at this time  
4 that Government's Exhibits 1 through 38 be sealed as well.

5 THE COURT: The same basis, *U.S. v. Briggs* and *U.S. v.*  
6 *Smith*?

7 MR. LEWIS: Yes, Your Honor.

8 THE COURT: Very well. We will do that then.

9 Mr. Jones, I find that you are pleading guilty freely  
10 and voluntarily, I find that you understand the allegations the  
11 government is making against you and the penalties you face by  
12 pleading guilty to those allegations. I find that you  
13 understand your rights, that you knowingly waive your rights,  
14 that you are competent to enter your plea of guilty, and that  
15 there is a factual basis for your plea of guilty. And I am  
16 accepting your plea of guilty at this time.

17 Now, housekeeping matter, I know that he has been on  
18 bond on the other cases. And, obviously, the bond issue hasn't  
19 been resolved on the -- I mean, not resolved, excuse me -- has  
20 to be addressed, the bond issue on the information. And I am  
21 referring this matter to the magistrate so that the one bond in  
22 place can cover all of the cases.

23 And Mr. Jones, I need to tell you that the conditions  
24 of the bond are the same. So we are going to let the  
25 magistrate handle that.

11:51 1 Let's see, is there anything else that we need to take  
2 up?

3 MR. LEWIS: Not by the government, Your Honor.

4 THE COURT: I have a small housekeeping matter that I  
5 need to take up with the lawyers, but it will take about two  
6 minutes, if you could see me in chambers.

7 Other than that, we stand adjourned. Thank you.

8 \* \* \* \* \*

9 I certify that the foregoing is a correct transcript  
10 from the record of proceedings in the above-entitled matter. I  
11 further certify that the transcript fees and format comply with  
12 those prescribed by the Court and the Judicial Conference of  
13 the United States.

14

15 Signature: /s/Nalene Benavides Date: September 23, 2009  
16 Nalene Benavides, RMR, CRR

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